IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.1668 of 2002

Reserved on 18.9.2007

Date of decision :10.10.2007

Krishan Dass Petitioner

Vs.

Smt.Gyatri Devi and others Respondents

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?[1] No.

For the Petitioner: Mr.K.S.Kanwar, Advocate.

For the respondents: Mr.Naveen Kumar Bhardwaj, Advocate, for respondents No.1 to 8.

Mr.M.S.Chandel, Advocate General, with Mr.M.A.Khan and Ms.Meenakshi Sharma, Deputy Advocate Generals, for respondent No.9.

Rajiv Sharma, J.

The brief facts necessary for the adjudication of this petition are that Sh.Kirpa Ram, predecessor-in-interest of the respondents was allotted Khasra No.830/311 against which the petitioner had filed objections before the Consolidation Officer. The objections raised by the petitioner were rejected by the Consolidation Officer on 10.7.1985. The petitioner filed an appeal before the Settlement Officer, Consolidation of Holdings, Hamirpur. The Settlement Officer, Consolidation of Holdings, Hamirpur accepted the appeal on 5.10.1985. Sh.Kirpa Ram filed an

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[1] Whether reporter of local papers is allowed to see the judgment? No.

appeal under Section 30(4) of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 before the Additional Director, Consolidation of Holdings. The appeal preferred by Sh.Kirpa Ram was accepted by the Additional Director, Consolidation of Holdings on 5.10.1994. Feeling aggrieved by the order dated 5.10.1994 the petitioner filed revision before the Director Consolidation of Holdings. The revision preferred by the petitioner was rejected by the Director, Consolidation of Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 on 18.9.2002.

Mr.K.S.Kanwar, learned counsel appearing for the petitioner had strenuously argued that the order passed by the Consolidation Officer on 10.7.1985, the orders passed by the Additional Director of Consolidation of Holdings, and the order passed by the Director, Consolidation of Holdings (Consolidation and Prevention of Fragmentation) Act, are not susitainable in the eyes of law and further prayed that the order passed by the Settlement Officer dated 5.10.1985 be restored. The learned Advocate General, appearing on behalf of respondent No.9 as well as Mr.Naveen Kumar Bhardwaj, learned counsel appearing on behalf of the private respondents had supported the orders passed by the consolidation Officer, Additional Director, Consolidation of Holdings as well as the order passed by the Director, Consolidation of Holdings.

I have heard learned counsel for the parties and have also gone through the record of the case carefully.

The Consolidation Officer has rejected the objections filed by the petitioner on 10.7.1985. The settlement Officer had only considered one sided version of the petitioner in his order dated 5.10.1985. The Additional Director of Consolidation of Holdings had conducted the spot inspection and found that Khasra No.830/311 was adjacent to the Abadi of Sh.Kirpa Ram and was more suitable for extension of his Abadi as

compared to the petitioner whose Abadis were found away from this piece of land. The Additional Director had rightly come to the conclusion that respondent Sh.Kirpa Ram had got reserved only this piece of land for extension of Abadi whereas Dhari Ram and others had got reserved 1-14 kanals land comprised in Khasra Nos. 169, 170, 166, 316, 885/265 min and 884/269 min. The land which has been allotted to Dhari Ram i.e. Khasra No.316 (old) is in front of his house and suitable for the extension of his Abadi. The Director, Consolidation of Holdings had taken into consideration the fact that the Additional Director of Consolidation of Holdings had inspected the spot and thereafter came to the just conclusion that Khasra No.830/311 being adjacent to the house of the respondents was more suitable for extension of their Abadis.

The orders passed by the Additional Director, Consolidation of Holdings, besides being speaking order is based on correct appreciation of evidence brought on record by the parties. There is neither any jurisdictional error nor any procedural irregularity in the orders passed by the Additional Director, Consolidation of Holdings as well as the Director Consolidation of Holdings. Accordingly, there is no merit in the writ petition and the same is dismissed with no order as to costs.

October 10, 2007 (g) **(Rajiv Sharma), J.**